

REMARKS

Claims 1, 5, 8-12, 80, 83 and 85-87 are pending in this application. By this Amendment, claim 80 is amended to overcome the 35 U.S.C. §101 rejection. Support for the amendments to claim 80 can be found in the original specification at least at, for example, page 81, lines 18-19. No new matter is added.

In view of the foregoing amendments and the following remarks, reconsideration and allowance of claims 1, 5, 8-12, 80, 83 and 85-87 are respectfully requested.

Allowable Subject Matter

Applicant thanks the Examiner for the indication that claims 1, 5, 8-12, 83 and 85-87 contain allowable subject matter.

35 U.S.C. §101 Rejection

Claim 80 was rejected under 35 U.S.C. §101 as allegedly not being directed to statutory subject matter.

Claim 80 is amended to recite, in relevant part, "A non-transitory computer-readable storage medium...". Claim 80 recites statutory subject matter, as further discussed below.

Patent Office Instructions For Subject Matter Eligibility Under 35 U.S.C. §101

The Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. §101, dated August 24, 2009 ("Instructions"), set forth two criteria that must be satisfied in order to comply with 35 U.S.C. §101. According to the Instructions, the claimed subject matter must (1) be directed to one of the four statutory categories (Process, Machine, Manufacture or Composition of Matter), and (2) must not be wholly directed to subject matter encompassing a judicially recognized exception. See the Overview of the Instructions. The instructions indicate that the judicially recognized exceptions include physical phenomena, scientific principles, systems that depend on human intelligence alone, disembodied concepts and disembodied mathematical algorithms and formulas.

The Instructions define a "machine" as a concrete thing, consisting of parts, or of certain devices and combination of devices. A machine is any mechanical device or combination of mechanical powers and devices to perform some functions and produce a certain effect or result. See Step I of the Instructions. The Instructions further state that if the claimed product falls within one of the three product categories (machine, manufacture or composition of matter) and does not recite judicially excepted subject matter, it qualifies as eligible subject matter. See Section II(A) of the Instructions.

Claim 80 recites "a non-transitory computer-readable storage medium," which is a "machine" according to the Instructions. Further, claim 80 depends from claim 1, which recites "An image processing apparatus...," which also falls within the "machine" statutory category.

Thus, claim 80 recites statutory subject matter.

Withdrawal of the rejection is respectfully requested.

Concluding Remarks

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 5, 8-12, 80, 83 and 85-87 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



Mario A. Costantino
Registration No. 33,565

Andrew B. Whitehead
Registration No. 61,989

MAC:ABW/abw

Date: June 29, 2010

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry of this filing; Charge any fee due to our Deposit Account No. 15-0461</p>
